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MEMORANDUM (STAFF REPORT)

TO: Monroe County Planning Commission

FROM: Jerry Coleman

DATE: June 20, 2006

MEETING DATE: June 28, 2006

RE: REVISIONS TO MONROE COUNTY LAND DEVELOPMENT
REGULATIONS, SECTION 9.5-122(c) - PROVIDING FOR
FRACTIONAL ROGO ALLOCATIONS FOR SMALL
AFFORDABLE HOUSING UNITS

I. BACKGROUND

A September 28, 2005 Task Force resolution recommended that the BOCC direct the immediate adoption of County land development regulation amendments authorizing fractional ROGO allocations for affordable housing units of limited size.

This memorandum/staff report draws from the amendments that were previously discussed at the Workforce Housing Task Force workshop meetings with the Board of County Commissioners, held on February 10, 2006 (the BOCC approved the recommendation for these changes at its regularly scheduled meeting in Key Largo on February 15, 2006) and at a Planning Commission/Workforce Housing Task Force joint meeting held on March 8, 2006. The attached version of the proposed ordinance was discussed and approved at the regularly scheduled Development Review Committee meeting in Marathon on May 23, 2006. On June 14, 2006, the Planning Commission continued the proposed ordinance to their regularly scheduled meeting in Key Largo on June 28, 2006.

The fractionalized ROGO ordinance would count affordable workforce housing units of less than 750 square feet in size as 0.5 of an affordable ROGO allocation instead of the current 1.0 unit allocation. The rationale for this change being, among other things, that these smaller workforce housing units are less likely to have the potential negative evacuation impacts to the same extent that larger affordable and market-rate units might have. Therefore, the exhaustion of a full unit allocation is not only unjustified, but is also a disincentive for development of smaller units

suitable for infill projects and the more intensive and efficient use of available vacant and currently developed land in the Keys.

Attached for the Commission's additional review is a copy of the City of Marathon's recently adopted fractional ROGO ordinance (Ordinance 2006-05).

II. SUMMARY

The proposed changes are as follows:

Section 1: Amend Sec. 9.5-122(c) to add subsection (5) to read as follows:

(c) *Affordable housing allocation awards and eligibility:*

(5) Applications for the construction of affordable or employee housing units of no greater than 750 sq. ft. of enclosed living area shall require 0.5 of an available affording housing unit permit allocation. The County may require recording of deed restrictions limiting future expansion of unit size, including the subsequent recordation of copies of any initial building permits issued pursuant to this section. Building permits for subsequent expansion of the living area beyond a total of 750 sq. ft. for dwelling units constructed pursuant to an allocation award granted under this provision shall not be issued except in accordance with specific authority granted under the land development regulations with reference to this provision and any applicable deed restrictions of record.

Current Code §9.5-122(c) does not distinguish between affordable units based on size. Regardless of the size of an affordable unit, it now counts as a full affordable ROGO allocation.

III. FINDINGS OF FACT

1. Staff finds that the proposed changes are consistent with Section 9.5-511(d)(5)b.(i), (ii), (iv) and (v); to wit, "changed projections", "changed assumptions", "new issues" and "recognition of a need for additional detail or comprehensiveness".
2. Staff finds the amendment consistent with the goals, objectives, and policies of the Monroe County Year 2010 Comprehensive Plan.
3. Other Keys jurisdictions are adopting similar ordinances.
4. Staff finds the amendment consistent with F.A.C. Chapters 9J-5, Florida Statutes, Chapter 163 and The Principles for Guiding Development.

IV. PROPOSED TEXT CHANGE

Please see attached ordinance.

V. RECOMMENDED ACTION

Based on the Findings of Fact, Staff and Workforce Housing Task Force counsel, the Development Review Committee recommends that the Planning Commission recommend **APPROVAL** of the proposed text changes to Section 9.5-122 of the Monroe County Land Development Regulations.

ORDINANCE NO. 2006

**AN ORDINANCE OF THE MONROE COUNTY BOARD OF
COUNTY COMMISSIONERS AMENDING SEC. 9.5-122(c) OF
THE LAND DEVELOPMENT REGULATIONS PROVIDING FOR
FRACTIONAL ROGO ALLOCATIONS FOR SMALL
AFFORDABLE HOUSING UNITS; AMENDING AND/OR ADDING
FOR CONSISTENCY PURPOSES RELATED PROVISIONS;
PROVIDING FOR SEVERABILITY AND REPEAL OF
INCONSISTENT PROVISIONS; PROVIDING EFFECTIVE DATE;
PROVIDING FOR INCORPORATION IN THE MONROE
COUNTY CODE OF ORDINANCES**

WHEREAS, the Board of County Commissioners has considered the comments of the public, recommendations of the Planning Commission, recommendations of staff and the Workforce Housing Task Force and its counsel, and other matters, and;

WHEREAS, the Board of County Commissioners makes the following Findings of Fact:

1. Monroe County and its municipalities have a mutual interest in preserving and providing affordable housing countywide.
2. The challenge of providing affordable housing opportunities in the Florida Keys is one requiring sensible and responsive use of residential unit allocations, with due consideration to relevant factors such as recognition of reduced hurricane evacuation and carrying capacity impacts attributable to smaller residential units housing fewer occupants than larger dwellings.
3. The need is real and urgent for smaller units requiring less land for building footprints and costing less to construct and maintain, which are therefore more amenable to construction and maintenance as affordable housing for small households.
4. The number of affordable residential unit allocations is extremely limited and the current application of land development regulations which allocate a full whole-unit allocation to a newly constructed affordable residence without regard to the size of the dwelling unit may discourage the construction of smaller units that might otherwise be constructed were affordable unit allocations capable of being fractionalized.
5. The Florida Department of Community Affairs has indicated its receptivity to land development regulation amendments which apply a fractional allocation methodology with respect to smaller units developed as qualified affordable housing in the Florida Keys.

6. On April 10, 2006, the City of Marathon passed a similar fractional “ROGO” allocation ordinance (Ordinance 2006-05) for affordable/workforce housing units of 750 square feet or less.

7. These amendments to the land development regulations specifically further Fla. Stat. § 163.3202(3) by implementing innovative land development regulation provisions such as transfer of development rights, incentive and inclusionary housing.

8. These amendments to the land development regulations are necessary to ensure that, despite the limited availability of developable lands, the County’s existing and future housing stock includes adequate affordable housing opportunities.

9. The proposed amendment to the Land Development Regulations are consistent with and further goals, objectives and policies of the Year 2010 Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, THE FOLLOWING: That the preceding findings support its decision to approve the amendments to the Land Development Regulations of the Monroe County Code as provided herein:

Section 1: Amend Sec. 9.5-122(c) to add subsection (5) to read as follows:

(c) *Affordable housing allocation awards and eligibility:*

(5) Applications for the construction of affordable or employee housing units of no greater than 750 sq. ft. of enclosed living area shall require 0.5 of an available affording housing unit permit allocation. The County may require recording of deed restrictions limiting future expansion of unit size, including the subsequent recordation of copies of any initial building permits issued pursuant to this section. Building permits for subsequent expansion of the living area beyond a total of 750 sq. ft. for dwelling units constructed pursuant to an allocation award granted under this provision shall not be issued except in accordance with specific authority granted under the land development regulations with reference to this provision and any applicable deed restrictions of record.

Section 2. Severability.

If any section, paragraph, subdivision, clause, sentence or provision of this ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of this ordinance, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

Section 3. Conflicting Provisions.

In the case of direct conflict between any provision of this ordinance and a portion or provision of any appropriate federal, state or county law, rule, code or regulation, the more restrictive shall apply.

Section 4. Transmittal.

This ordinance shall be transmitted by the Planning and Environmental Resources Department to the Florida Department of Community Affairs to determine the consistency of this ordinance with the Florida Statutes and as required by F.S. 380.05(6) and (11).

Section 5. Filing

This ordinance shall be filed in the Office of the Secretary of State of Florida but shall not become effective until a notice is issued by the Department of Community Affairs or Administration Commission approving the ordinance.

Section 6. Effective Date.

This ordinance shall become effective as provided by law and stated above. Where Comprehensive Plan amendments may be required in order for any part of this ordinance to be deemed consistent with the Comprehensive Plan, the effective date of such part shall be as of the effective date of the required Comprehensive Plan amendment and as otherwise required by law.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida at a regular meeting held on the _____ day of _____, 2006.

Mayor Charles "Sonny" McCoy	_____
Mayor Pro Tem Dixie Spehar	_____
Commissioner George Neugent	_____
Commissioner Glenn Patton	_____
Commissioner David Rice	_____

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

BY: _____
Mayor Charles "Sonny" McCoy

(SEAL)
ATTEST: DANNY L. KOLHAGE, CLERK

Deputy Clerk

APPROVED AS TO FORM:

County Attorney